

1 KAMALA D. HARRIS
Attorney General of California
2 LINDA K. SCHNEIDER
Senior Assistant Attorney General
3 THOMAS L. RINALDI
Supervising Deputy Attorney General
4 State Bar No. 206911
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2541
6 Facsimile: (213) 897-2804

7 *Attorneys for Complainant*

8 **BEFORE THE**
9 **STRUCTURAL PEST CONTROL BOARD**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

FILED

Date 9/4/15 By

Susan Saylor

11 In the Matter of the Accusation Against:

Case No. 2016-16

12 **MICHAEL ANGELO LUGO**
1746-F South Victoria Avenue, Unit #361
13 Ventura, CA 93003

A C C U S A T I O N

14 Field Representative's License No. FR 16118

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

19 1. Susan Saylor (Complainant) brings this Accusation solely in her official capacity as the
20 Registrar/Executive Officer of the Structural Pest Control Board (Board), Department of
21 Consumer Affairs.

22 2. On or about April 6, 1988, the Board issued Field Representative's License No. FR
23 16118, Branch 2 (general pest) and 3 (termite) to Michael Angelo Lugo (Respondent). The Field
24 Representative's License was in full force and effect at all times relevant to the charges brought
25 herein and will expire on June 30, 2017, unless renewed.

26 **JURISDICTION**

27 3. This Accusation is brought before the Board under the authority of the following laws.
28 All section references are to the Business and Professions Code unless otherwise indicated.

STATUTORY PROVISIONS

4. Section 8620 provides, in pertinent part, that the Board may suspend or revoke a license when it finds that the holder, while a licensee or applicant, has committed any acts or omissions constituting cause for disciplinary action or in lieu of a suspension may assess a civil penalty.

5. Section 8593 states:

The board shall require as a condition to the renewal of each operator's and field representative's license that the holder submit proof satisfactory to the board that he or she has informed himself or herself of developments in the field of pest control either by completion of courses of continuing education in pest control approved by the board or equivalent activity approved by the board.

In lieu of submitting that proof, the licenseholder, if he or she so desires, may take and successfully complete an examination given by the board, designed to test his or her knowledge of developments in the field of pest control since the issuance of his or her license.

The board shall develop a correspondence course or courses with any educational institution or institutions as it deems appropriate. This course may be used to fulfill the requirements of this section. The institution may charge a reasonable fee for each course.

The board may charge a fee for the taking of an examination in each branch of pest control pursuant to this section in an amount sufficient to cover the cost of administering each examination, provided, however, that in no event shall the fee exceed fifty dollars (\$50) for each examination.

6. Section 8637 states:

Misrepresentation of a material fact by the applicant in obtaining a license or company registration is a ground for disciplinary action.

7. Section 8641 states:

Failure to comply with the provisions of this chapter, or any rule or regulation adopted by the board, or the furnishing of a report of inspection without the making of a bona fide inspection of the premises for wood-destroying pests or organisms, or furnishing a notice of work completed prior to the completion of the work specified in the contract, is a ground for disciplinary action.

8. Section 8654 states:

Any individual who has been denied a license for any of the reasons specified in Section 8568, or who has had his or her license revoked, or whose license is under suspension, or who has failed to renew his or her license while it was under suspension, or who has been a member, officer, director, associate, qualifying manager, or responsible managing employee of any partnership, corporation, firm, or

1 association whose application for a company registration has been denied for any of
2 the reasons specified in Section 8568, or whose company registration has been
3 revoked as a result of disciplinary action, or whose company registration is under
4 suspension, and while acting as such member, officer, director, associate, qualifying
5 manager, or responsible managing employee had knowledge of or participated in any
6 of the prohibited acts for which the license or registration was denied, suspended or
7 revoked, shall be prohibited from serving as an officer, director, associate, partner,
8 qualifying manager, or responsible managing employee of a registered company, and
9 the employment, election or association of such person by a registered company is a
10 ground for disciplinary action.

11 REGULATORY PROVISIONS

12 9. California Code of Regulations, title 16, section 1950 states, in pertinent part:

13 “(a) Except as provided in section 1951, every licensee is required, as a condition to
14 renewal of a license, to certify that he or she has completed the continuing education requirements
15 set forth in this article. A licensee who cannot verify completion of continuing education by
16 producing certificates of activity completion, whenever requested to do so by the Board, may be
17 subject to disciplinary action under section 8641 of the code.

18 “(b) Each licensee is required to complete a certain number of continuing education hours
19 during the three year renewal period. The number of hours required depends on the number of
20 branches of pest control in which licenses are held. The subject matter covered by each activity
21 shall be designated as “technical” or “general” by the Board when the activity is approved. Hour
22 values shall be assigned by the Board to each approved educational activity, in accordance with the
23 provisions of section 1950.5.

24

25 “(d) Field representatives licensed in one branch of pest control shall have completed 16
26 continuing education hours, field representatives licensed in two branches of pest control shall
27 have completed 20 continuing education hours, field representatives licensed in three branches of
28 pest control shall have completed 24 continuing education hours during each three year renewal
period. In each case, a minimum of four continuing education hours in a technical subject directly
related to each branch of pest control held by the licensee must be completed for each branch of
pest control licensed, a minimum of two hours in Integrated Pest Management must be completed
by Branch 2 and/or 3 licensees renewing on or after June 30, 2010, and a minimum of eight hours

1 must be completed from Board approved courses on the Structural Pest Control Act, the Rules
2 and Regulations, or structural pest control related agencies' rules and regulations."

3 **COST RECOVERY**

4 10. Section 125.3 states, in pertinent part, that a Board may request the administrative law
5 judge to direct a licentiate found to have committed a violation or violations of the licensing act to
6 pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

7 **FACTS**

8 11. On or about July 30, 2014, Respondent submitted a Field Representative license
9 renewal application to the Board wherein Respondent certified under penalty of perjury that he
10 successfully completed all required continuing education coursework during his last renewal
11 period. Specifically, Respondent signed a License Renewal Application, which provided in
12 pertinent part:

13 Continuing Education Certification – I have completed "20" hours of continuing
14 education required for renewal of my license. I DECLARE UNDER PENALTY OF
15 PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THE
FOREGOING IS TRUE AND CORRECT.

16 12. Respondent filled in "20" for the number of hours, signed his name below the above
17 certification, and dated his signature "7/30/14."

18 13. On or about November 3, 2014, Respondent was notified that he had been selected for
19 a continuing education (CE) audit by the Board. Respondent was informed that he needed to
20 submit to the Board, copies of his certificates of completion that verify the CE hours for the
21 renewal period July 1, 2011 through June 30, 2014. Respondent was given 14 days to respond to
22 the Board's request or risk disciplinary action being taken against his license. Respondent failed to
23 provide the Board with any certificates of completion of CE requirements for the renewal period
24 indicated.

25 14. On or about November 14, 2014, Respondent sent a letter to the Board indicating that
26 he had not completed his continuing education.

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1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Failure to Provide Proof of Continuing Education)**

3 15. Respondent is subject to disciplinary action pursuant to sections 8641 and 8593 of the
4 Code in conjunction with California Code of Regulations, title 16, section 1950 subdivision (a), in
5 that Respondent failed to provide the Board with verifiable documentation to demonstrate that he
6 completed all of the courses of continuing education requirements as a condition of renewal of his
7 Field Representative License. Specifically, Respondent failed to produce copies documenting
8 completion of twenty (20) hours of continuing education for the renewal period of July 1, 2011
9 through June 30, 2014, as requested by the Board's representative. Complainant refers to and by
10 this reference incorporates, the allegations set forth above in paragraphs 11-14, inclusive, as
11 though set forth fully.

12 **SECOND CAUSE FOR DISCIPLINE**

13 **(Misrepresentation of Material Fact)**

14 16. Respondent is subject to disciplinary action pursuant to section 8637 of the Code, in
15 that on or about July 30, 2014, Respondent misrepresented to the Board that he had completed
16 twenty (20) hours of continuing education coursework in his license renewal application and failed
17 to submit proof of completion of hours to fulfill the Board's continuing education requirements as a
18 condition of renewal of his license. Complainant refers to and by this reference incorporates, the
19 allegations set forth above in paragraphs 11-14, inclusive, as though set forth

20 **OTHER MATTERS**

21 17. Section 8620 provides, in pertinent part, that a respondent may request that a civil
22 penalty of not more than \$5,000 be assessed in lieu of an actual suspension of 1 to 19 days, or not
23 more than \$10,000 for an actual suspension of 20 to 45 days. Such request must be made at the
24 time of the hearing and must be noted in the proposed decision. The proposed decision shall not
25 provide that a civil penalty shall be imposed in lieu of a suspension.

26 18. Pursuant to section 8654, if discipline is imposed on Field Representative's License
27 No. FR 16118, issued to respondent, Respondent shall be prohibited from serving as an officer,
28 director, associate, partner, qualifying manager, or responsible managing employee for any

1 registered company during the time the discipline is imposed, and any registered company which
2 employs, elects, or associates Respondent shall be subject to disciplinary action.

3 **PRAYER**

4 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
5 and that following the hearing, the Board issue a decision:

6 1. Revoking or suspending Field Representative's License No. FR 16118, issued to
7 Michael Angelo Lugo;

8 2. Prohibiting Michael Angelo Lugo from serving as an officer, director, associate,
9 partner, qualifying manager, or responsible managing employee of any registered company during
10 the period that discipline is imposed on Field Representative License No. FR 16118, issued to

11 Michael Angelo Lugo;

12 3. Ordering Michael Angelo Lugo to pay the Board the reasonable costs of the
13 investigation and enforcement of this case, pursuant to section 125.3; and

14 4. Taking such other and further action as deemed necessary and proper.
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17 DATED: 9/4/15



SUSAN SAYLOR
Registrar/Executive Officer
Structural Pest Control Board
Department of Consumer Affairs
State of California
Complainant

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